

## **REMARKS**

### **Preliminary Matter**

#### **Information Disclosure Statement filed July 26, 2007**

Applicants note that the Examiner crossed through the non patent literature document “E. Damosso et al.” in the copy of the PTO/SB/08 form filed with the Information Disclosure Statement (“IDS”) on July 26, 2007. Applicants request the Examiner’s acknowledgement of the listed non patent literature document “E. Damosso et al.”, and note that they provided a statement of relevance on page 2 of the IDS, in lieu of a translation, to point out that the relevance of “E. Damosso et al.” is discussed on page 6 of Applicants’ specification. This satisfies the requirement for a concise explanation of relevance set forth in 37 C.F.R. § 1.98(a)(3)(i). *See also* M.P.E.P. § 609.04(a)(II) (“If no translation is submitted, the examiner will consider the information in view of the concise explanation and insofar as it is understood on its face...”). Applicants therefore request that the Examiner consider “E. Damosso et al.” and indicate such consideration in the next written communication from the Office.

#### **Objection to Claim 1**

The Office Action indicates, at item 7 on the Office Action Summary page (PTOL-326), that the Examiner objects to claim 1. This seems to be a typographical error because (a) claim 1 has been cancelled, and (b) there is no explanation of any claim objection in the body of the Office Action. Applicants respectfully request clarification and withdrawal of the objection.

### **Amendments to the Claims**

Claims 18-34 are pending and under current examination. Applicants have amended claim 18 to correct informalities and to overcome the 35 U.S.C. § 112, second paragraph, rejection.

### **Office Action**

Applicants respectfully traverse the objection and rejections in the Office Action, wherein the Examiner:

- (a) provisionally rejected claim 18<sup>1</sup>, under the judicially created doctrine of nonstatutory obviousness-type double patenting, as being unpatentable over claim 26 of copending U.S. Patent Application No. 10/588,370;
- (b) objected to the Specification;
- (c) rejected claim 18 under 35 U.S.C. § 112, second paragraph;
- (d) rejected claims 18, 33, and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,173,185 B1 ("Bernardin"); and
- (e) rejected claims 19-32 under 35 U.S.C. § 103(a) as being unpatentable over Bernardin in view of U.S. Patent No. 6,047,238 ("Olofsson").

### **Provisional Obviousness-type Double Patenting Rejection of Claim 18**

Applicants traverse the provisional obviousness-type double patenting rejection of claim 18, because pending claim 18 is patentably distinguishable over claim 26 of Applicants' copending U.S. Patent Application No. 10/588,370. To advance prosecution, however, and without acceding to the grounds for the Examiner's rejection, Applicants concurrently file a Terminal Disclaimer with respect to U.S. Patent Application No. 10/588,370, and respectfully request withdrawal the provisional obviousness-type double patenting rejection.

### **Objection to the Specification**

The Office Action objected to the specification because "[p]ara 0038 of the specification mentions achieving the aim of the claimed invention defined in claims 1, 16, and 17 which are

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<sup>1</sup> The Office Action rejected cancelled claim 17, which appears to be a typographical error. *See* Office Action, p. 3, item 3, and p. 4, item 5, both acknowledging the cancellation of claims 1-17. It appears that the Office Action instead intended to reject claim 18. Therefore, Applicants respond to this rejection based on claim 18.

cancelled claims.” Office Action, p. 3. Applicants note that “para 0038” refers to the published version of this application (U.S. Patent Application Pub. No. 2007/0270153), and corresponds to the paragraph beginning at p. 8, line 32 and ending at p. 9, line 1 in the as-filed specification. In response to the objection, Applicants have amended this portion of the as-filed specification to delete the recitation of “as defined in claims 1, 16, and 17, respectively.” Accordingly, Applicants request withdrawal of the objection.

**Rejection of Claim 18 under 35 U.S.C. § 112, Second Paragraph**

In response to the rejection, Applicants have amended claim 18 by (1) changing “cell coverage” to “the cell coverage” in line 5, (2) changing “a region around” to “[a] the region around” in line 6, (3) changing “the environment” to “[the] an environment” in lines 10-11, and (4) changing “the coverage” to “the cell coverage” in line 9. Applicants respectfully submit that the amendments overcome the rejection under 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request withdrawal of the rejection.

**Rejection of Claims 18, 33, and 34 under 35 U.S.C. § 102(b)**

Applicants request reconsideration and withdrawal of the rejection of claims 18, 33, and 34 under 35 U.S.C. § 102(b) as being anticipated by Bernardin.

In order to establish anticipation under 35 U.S.C. § 102, the Office Action must show that each and every element as set forth in the claim is found, either expressly or inherently described, in Bernardin. See M.P.E.P. § 2131. Bernardin, however, does not disclose each and every element of Applicants’ claims.

Specifically, Bernardin does not disclose or suggest at least the following features recited in independent claim 18: “wherein computing the cell coverage comprises: dividing the region

around said radio base station into a number of first areas ... [and ] dividing at least some of said first areas into a number of second areas.”

The Office Action alleges that Figs. 1a and 1b of Bernardin disclose the above-quoted features recited in claim 18, because Figs. 1a and 1b allegedly disclose “first areas[,] i.e., cell edge[s],” and Fig. 1b allegedly discloses “areas within cell edge with greater reliability.” *See* Office Action, p. 5. Applicants respectfully disagree.

Bernardin discloses a method for minimizing the area sampled to determine cell area coverage reliability in a radiotelephone system. *See* Bernardin, Title. Fig. 1a of Bernardin shows a contour reliability diagram and Fig. 1b of Bernardin shows an overall area reliability diagram. These reliability diagrams are “[t]wo standard ways to express cell reliability.” *See Id.* at col. 1, line 18. Therefore, these reliability diagrams merely show results of computing, but not how to compute the cell coverage. Even if Figs. 1a and 1b are construed to disclose “areas,” as alleged by the Office Action at p. 5 (and which Applicants do not necessarily concede), these figures showing contour liability diagrams do not disclose “wherein computing the cell coverage comprises: dividing the region around said radio base station into a number of first areas,” and “dividing at least some of said first areas into a number of second areas,” as recited in claim 18 (emphases added).

In addition, Applicants submit that Bernardin also does not disclose or suggest the following elements recited in claim 18:

for at least some target second areas of said second areas,  
computing respective quantities indicative of the cell coverage  
within said target second areas, each quantity being computed for  
the respective target second area as a function of data describing an  
environment between said radio base station and said target second  
area along a propagation path of a radioelectric signal radiating out  
from said radio base station and passing through said target second  
area; [and]

each quantity being computed for the respective target second area as a function of data describing the environment within at least some second areas close to at least one of said radio base station and said target second area along the radioelectric signal propagation path, and as a function of data describing the environment within at least some first areas along the remaining stretch of the radioelectric signal propagation path.

The Office Action, however, alleges that Bernardin discloses the above-quoted elements of claim 18, and refers to Fig. 1b of Bernardin, stating that “Bernard discloses reliability values computed by propagation method.” Office Action, p. 5. The Office Action also refers to col. 4, lines 24-26 of Bernardin for its disclosure of a “fade margin,” col. 4, lines 51-52 of Bernardin for its disclosure that the “fading margin [is] included in the measurements,” and col. 4, lines 58-63 of Bernardin for its disclosure that “the cell reliability is based on received points within large area[,] i.e., cell radius.” See Office Action, p. 6.

Contrary to the Office Action’s allegations, none of the cited portions of Bernardin disclose the above-quoted elements of claim 18. In particular, the portions of Bernardin cited by the Office Action do not disclose or suggest that “each quantity [is] computed for the respective target second area as a function of” the following combination recited in claim 18:

- (1) “data describing the environment between said radio base station and said target second area along a propagation path . . .”;
- (2) “data describing the environment within at least some second areas close to at least one of said radio base station and said target second area along the radioelectric signal propagation path . . .”; and
- (3) “data describing the environment within at least some first areas along the remaining stretch of the radioelectric signal propagation path” (emphases added).

Specifically, the “fade margin,” as disclosed in Bernardin at col. 4, lines 24-26, is calculated “based on the actual signal variation within each cell . . . to ensure the desired cell edge reliability.” Therefore, the “fade margin” of Bernardin does not constitute a “quantity

being computed for the respective target second area as a function of” a combination of the above elements (1)-(3), as recited in claim 18.

Furthermore, Applicants submit that col. 4, lines 58-63 of Bernardin cited in the Office Action merely disclose that “[a]rea reliability is graphically determined by dividing the number of received signal points N1 above threshold  $P_{THRESH}$  410 by the sum of N1 and the number N2 of received signal points; i.e. Reliability =  $N1/(N1+N2)$ .” However, the “area reliability,” as disclosed in Bernardin, cannot be equated with a “quantity being computed for the respective target second area,” at least because the “area reliability” is not calculated as a function of a combination of the above elements (1)-(3), as recited in claim 18.

Thus, Bernardin fails to disclose or suggest each and every element recited in independent claim 18. Therefore, claim 18 is not anticipated by Bernardin, and should be allowable. In addition, dependent claims 33 and 34 should also be allowable at least by virtue of their dependence from base claim 2, as well as because they recite additional features not taught or suggested by Bernardin. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection.

**Rejection of Claims 19-32 under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejection of claims 19-32 under 35 U.S.C. § 103(a) as being unpatentable over Bernardin in view of Olofsson.

The Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007).

In particular, the Office Action has not properly determined the scope and content of the prior art. Specifically, Bernardin and Olofsson do not teach or suggest what the Office Action attributes to them. In addition, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because it has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

As discussed in the previous section, Bernardin does not disclose or suggest at least Applicants' claimed "computing the cell coverage comprises: dividing the region around said radio base station into a number of first areas; [and] dividing at least some of said first areas into a number of second areas," as recited in claim 18. Bernardin also does not disclose or suggest Applicants' claimed "each quantity being computed for the respective target second area as a function of" the following combination recited in claim 18:

- (1) "data describing the environment between said radio base station and said target second area along a propagation path . . .";
- (2) "data describing the environment within at least some second areas close to at least one of said radio base station and said target second area along the radioelectric signal propagation path . . ."; and
- (3) "data describing the environment within at least some first areas along the remaining stretch of the radioelectric signal propagation path" (emphases added).

The Office Action relies on Olofsson to allegedly cure the deficiencies of Bernardin. Olofsson teaches a method and a device for generation of path profiles. See Olofsson, Abstract. Olofsson, however, does not disclose or suggest, among other things, the claimed "computing the cell coverage comprises: dividing the region around said radio base station into a number of first areas ... [and] dividing at least some of said first areas into a number of second areas," and "each quantity being computed for the respective target second area as a function of" a

combination of the elements (1)-(3), as recited in claim 18. Accordingly, Olofsson fails to cure the deficiencies of Bernardin.

Thus, Bernardin and Olofsson, whether taken alone or in combination, fail to disclose or suggest each and every element recited in independent claim 18. Independent claim 18 is thus nonobvious over the cited references, and should be allowable. In addition, dependent claims 19-32 should be allowable at least by virtue of their dependence from base claim 18, as well as because they recite additional features not taught or suggested by Bernardin and Olofsson. Applicants therefore respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection.

### **Conclusion**

Pending claims 18-34 are not anticipated or rendered obvious by the cited references. Applicants therefore respectfully request reconsideration of this application and the timely allowance of the pending claims.

The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.



Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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